

In the Matter of Merchant Mariner's Document No. Z-1115512 and all
other Seaman Documents
Issued to: BILLY JACK TAYLOR

DECISION OF THE COMMANDANT
UNITED STATES COAST GUARD

1315

BILLY JACK TAYLOR

This appeal has been taken in accordance with title 46 United States Code 239(g) and Title 46 Code of Federal Regulations 137.11-1.

By order dated 27 March 1961, an Examiner of the United States Coast Guard at New Orleans, Louisiana suspended Appellant's seaman documents for three months outright plus three months on twelve months' probation upon finding him guilty of misconduct. The four specifications found proved allege that while serving as a galley utilityman on board the United States SS NEVA WEST under authority of the document above described, on 1 January 1961, appellant twice assaulted and battered third cook Chen; he threatened the third cook with a dangerous weapon; and Appellant wrongfully created a disturbance.

At the hearing, Appellant voluntarily elected to act as his own counsel. Appellant entered pleas of not guilty to the charge and each specification. He was present at only one session of the hearing and this was before two Government witnesses testified at the hearing.

The third cook testified as set forth in the below finding of fact. By deposition, a bedroom steward corroborated the cook's testimony that Appellant had a knife in his possession after the first assault and battery alleged. The able seaman on gangway watch testified that he heard screaming coming from the vicinity of the third cook's room about the time of the second assault and batter alleged.

FINDINGS OF FACT

On 1 January 1961, Appellant was serving as a galley utilityman on board the United States SS NEVA WEST and acting under authority of his document while the ship was in the port of Rotterdam, Netherlands.

About 1600 on this date, Appellant returned on board in an

intoxicated condition. He went to the galley and, without provocation, put his hand around third cook Chen's neck, started to choke him, and stated that he was going to kill Chen. Appellant released his grip when told by a messman to leave Chen alone. Appellant then picked up a French knife and threatened Chen with it. Chen feared that he would be cut with the knife but Appellant stuck it in a meat block. The Master was called to the scene and he permitted Appellant to go ashore.

Appellant returned on board at approximately 1800 and went to Chen's room. Appellant again began to choke the third cook. Chen screamed for help and managed to pick up a long knife sharpener with which he struck Appellant on the head. Appellant released his hold on Chen before the gangway watch and others arrived at the room. The local police were called but they did not remove Appellant from the ship. When the Master returned on board, he confined Appellant to the ship.

Chen was not visibly injured. He is much older and smaller man than the Appellant.

Appellant's prior record consists of an admonition in 1960 for absence from his ship and duties.

BASES OF APPEAL

This appeal has been taken from the order imposed by the Examiner. It is contended that the evidence does not establish guilty beyond a reasonable doubt; cook Chen's testimony was unjustly prejudiced due to personal animosity between the two seamen; Appellant acted in self-defense; Appellant was wounded when attacked by the third cook.

OPINION

There is substantial evidence in the record to prove the offenses committed against the third cook. This is the degree of proof required rather than proof beyond a reasonable doubt. Although it has been found that Appellant was injured by Chen, there is no evidence that Appellant acted in self-defense and no indication that the cook's testimony was guided by any animosity other than that which was naturally engendered by these events. Appellant waived the opportunity to present evidence in rebuttal when he failed to appear at the hearing after the Investigating Officer has rested his case.

The finding that Appellant created a disturbance is set aside and the specification is dismissed because there was no disturbance except as a result of the same factors which are covered by the

other three specifications. Nevertheless, there is ample justification for the order of suspension imposed by the Examiner.

ORDER

The order of the Examiner dated at New Orleans, Louisiana, on 27 March 1961, is AFFIRMED.

A. C. Richmond
Admiral, United States Coast Guard
Commandant

Signed at Washington, D. C., this 15th day of May 1962.